IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.114 OF 2006

Shri.S.J. Goyal.
...Applicant.

Vs.

The State of Maharashtra and anr.
...Respondent.

Mr.A.K.Prajapati for the Applicants.

Mr.Sandip Katane i/by Mr. Milind Dande for the respondent No.2.

Mr.A.S.Shitole, APP. for the State.

CORAM : R.S. MOHITE,J.
DATED : 13/3/2006.

P.C.

1. Heard.

2. Rule. By consent, rule made returnable forthwith.

3. This application impugns an order dated 18.1.2006 passed by the Sessions Judge (V.C.Singh) in Revision Application No.62/2006. The said revision was filed by the original accused in Cri. Case No.4/S/94 which was being tried by the Additional Chief Metropolitan Magistrate, 37th Court, Esplanade, Bombay. It appears that the trial was for an offence under

Section 500 read with 114 of the Indian Penal Code. The process had been issued in the complaint and the evidence has already commenced in the case. While the evidence was being led, an application came to be made by the accused on 16.12.2005 seeking a sine die adjournment of the trial on the ground that the arbitration proceedings between the parties were in progress and the finding in the arbitration proceedings would be necessary for a decision in the case. This was rejected by the Metropolitan Magistrate vide his order dated 16.12.2005 by holding that the evidence has already started and the case was very old. He directed the cross examination to proceed. This order was challenged before the Sessions Judge in a revision and the revisional court however, passed the impugned order dated 18.1.2006 holding that on plain reading of the complaint, the complaint did not make out a case for defamation. He proceeded to dismiss the complaint on this ground.

4. The record indicates that the order of issuance of process was never challenged in the revision application. The Revisional Court has dismissed the complaint without there being any such challenge to the order issuing process. In my view, the Revisional Court has exceeded its jurisdiction. The

order which is impugned has been made without any application of mind and it does not indicate even the contents of the complaint or give any reason as to why the plain reading of the complaint does not make out the case of defamation. In the circumstances, the impugned order dated 18.1.2006 is quashed and set aside. Rule is made absolute accordingly. Revision application stands disposed off.

(R.S. MOHITE, J.)